

FILED
FEB 23 2006
JBFUNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BROOKLYN OFFICE

ANTOWINE BUTTS,)	
)	ORDER COMPELLING
Plaintiff,)	PRODUCTION
)	
-against-)	
)	CV-01-2945(NG)(RML)
THE CITY OF NEW YORK; et al.,)	
)	
Defendants.)	
	X	

WHEREAS, plaintiff issued a subpoena duces tecum directed to Charles Hynes, Kings County District Attorney, commanding production of the complete file in the matter of People of the State of New York v. Antowine Butts, Ind. 339/98, and

WHEREAS, plaintiff provided an authorization pursuant to New York Criminal Procedure Law § 160.50, for release of the records concerning his criminal prosecution, and

WHEREAS, the subpoena required the production of the records on or before December 2, 2005, and

WHEREAS, the records have not been produced to date, and

WHEREAS, it appearing that said records have not been located,

NOW, THEREFORE, IT IS HEREBY ORDERED, that the Kings County District Attorney shall produce the records for inspection as demanded in the subpoena duces tecum on or before February 23, 2006, and

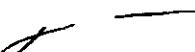
IT IS FURTHER ORDERED, that if the records are not produced on or before February 23, 2006, that the Kings County District Attorney shall submit sworn affidavit(s) to counsel for plaintiff and defendants, by person(s) with actual knowledge, setting forth the following matters:

- (1) A detailed account of the efforts made to locate the subject records, including the identities of all persons involved and their actual involvement;
- (2) A description of all records relating to the location of the subject records;
- (3) The identity of the person(s) who conducted the actual physical search for the subject records and the location(s) of that search;
- (3) The identity of the last person known to have been in possession of the subject records, and the location of the records at that time.

Dated: Brooklyn, New York
February 15, 2006

SO ORDERED:

/s/

ROBERT M. LEVY 
UNITED STATES MAGISTRATE JUDGE

THE LAW OFFICES OF
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NEW YORK, NEW YORK 10006
TEL:(212)587-8558 FAX:(212)571-7767

February 15, 2006

BY FAX TO (718)260-2647

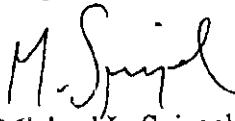
Hon. Robert M. Levy
United States Magistrate Judge
United States District Court
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *Butts v. NYC, et al.*
01 Civ. 2945(NG)(RML)

Dear Judge Levy:

Pursuant to the conference with the Court on February 9, 2006, I have prepared the enclosed proposed Order Compelling Production of the case file subpoenaed from the Kings County District Attorney in this case. Defendants' counsel, Ms. Frommer, consents to the form of the order, and plaintiff respectfully requests that Your Honor issue the Order.

Respectfully submitted,


Michael L. Spiegel
[MS 0856]

MLS:ms

cc: A.C.C. Hillary Frommer (by fax)
Bruce A. Barket, Esq. (by fax)

FAX TRANSMISSION

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To: Hon. Robert M. Levy **Date:** February 15, 2006
Fax #: (718) 613-2345 **Pages:** 4, including this cover sheet
From: Lauren Stephens-Davidowitz
Legal Assistant
Subject: Butts v. NYC, et al.
01 Civ. 2945 (NG)(RML)

COMMENTS:

Please see the attached letter from Mr. Spiegel forwarding a proposed Order Compelling Production of the case file subpoenaed from the Kings County District Attorney.

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